



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 7, 1995

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-1372

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36304.

The City of Houston (the "city") received an open records request from Mr. Alden D. Holford for "the identity of each and every person who has at any time complained to the [city] about [his] yard or grass." You contend that the requested information may be withheld pursuant to section 552.103(a) of the Government Code.¹ To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested records may therefore be withheld.

In reaching this conclusion, however, we assume that Mr. Holford has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information.

¹You also contend the requested information may be withheld pursuant to the informer's privilege. Because we resolve your request under section 552.103(a), we need not address here the extent to which the informer's privilege would otherwise apply to this information.

Open Records Decision Nos. 349 (1982), 320 (1982). If Mr. Holford has seen or had access to any of the information in these records, there would be no justification for now withholding that information from him pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Records Division

MAR/RWP/rho

Ref.: ID# 36304

Enclosures: Submitted documents

cc: Mr. Alden D. Holford
Attorney at Law
7515 Kensico
Houston, Texas 770036
(w/o enclosures)